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U.S. Department of Justice

Environment and Natural Resources Division

Environmental Enforcement Section
P.O. Box 7611
Washington, D.C. 20044-7611

Tel: (202) 514-3143
Fax: (202) 514-4180

February 14, 1997

BY FACSIMILE AND FIRST CLASS MAIL

Thomas Greenland, Esquire
Union Pacific Railroad
1416 Dodge Street, Room 830
Omaha, NE 68179
Fax No. 402-271-7107

Re: Coeur d'Alene Basin Negotiations

Dear Mr. Greenland:

Enclosed is a memorandum collaborated on by the representatives of the federal, state, and tribal entities setting forth a list of the work elements that these parties would want included in any settlement with Union Pacific. The list of elements is essentially an outline of the major work categories of a statement of work that would set forth the technical terms of a settlement with Union Pacific.

We currently have a telephone call scheduled for February 21, 1997 at 9:00 a.m. Pacific time. We look forward to discussing this document with you at that time.

Sincerely,

Thomas W. Swegle
Trial Attorney

cc: Steve Warner
plaintiff representatives

MEMORANDUM

DATE: February 14, 1997
TO: Distribution (see below)
FROM: Callie A. Ridolfi
SUBJECT: UPR Corridor Proposal by Federal, Tribal, and State Parties

General Description of Corridor Segments

Removal, containment or management of lead-contaminated soils and wastes within the corridor to address human health concerns is necessary. In addition, ecological risks must be addressed. Cleanup and design strategies may vary among the geographic segments of the corridor.

In the segment from Mullan to Cataldo, the corridor transects more densely populated areas of the basin through lands used for residential and recreational purposes. In these areas, removal and containment of lead contaminated soils will be necessary.

From Cataldo to Harrison, the corridor follows the lower Coeur d'Alene River and transects floodplain areas and lateral lakes where lead-contaminated material has impacted riparian and wetland habitat and associated wildlife. This segment of the corridor has numerous recreational access areas and less densely populated residential areas. Removal, containment and management to address human exposure at recreational areas and access points and mitigation to address riparian and wetland habitat impacts are appropriate. This area is also prone to periodic wash-outs which may need more intensive management.

From Harrison to Plummer, the corridor runs along the perimeter of and over the lake. Removal and containment to eliminate exposures near residential properties such as those on the eastern slopes bordering the lake, and at recreational areas such as Chatcolet Lake and beach access points is necessary.

Work Elements To Be Included in Union Pacific Settlement

The concepts outlined below are general at this point. Our proposal will eventually form the basis for a statement of work for the settlement, if agreement is reached with Union Pacific. These items will be a combination of prescriptive measures and process to accomplish the work. The agreement will contain performance standards and needs to be prescriptive enough to be enforceable.

General Work Elements

1. Corridor Characterization, Clean-up and Trail Preparation

Remove and properly dispose of ties

Remove and decontaminate rails

Characterize the corridor and right-of-way areas sufficiently to make management and removal decisions according to use and lead concentration

Remove and properly dispose of soils within corridor which exceed prescribed Pb concentration

Remove contaminated soils at areas subject to wind erosion to minimize recontamination of trail

2. Flood Control

Repair past flood damage and washouts, as necessary for trail construction

Prevent/minimize future damage through fortification of flood prone areas (e.g. Latour Creek area)

Remove and properly dispose of contaminated soils from selected flood-prone areas, followed by reconstruction and fortification of affected areas

3. Trail Design and Construction

Design and construct to prescribed specifications:

Base materials sufficient to support trail use and utility vehicles

Minimum width 10 feet

Hot asphalt mix with thickness sufficient to support utility vehicles

Bridge condition assessment and repair

Accommodation for horses, particularly from Plummer to Cataldo

Connections to other trails/roads

Others

Replace survey control/ reference points which were tied into old track system

4. Recreational Areas, Rest Stops, and Sidings

Characterize and remove contaminated surficial soils and replace with clean soils (to be defined) at sidings and other selected public use areas

Design and construct prescribed facilities (e.g. benches, toilets, fences, signs, shelters, drinking water, restrooms) at selected locations

Provide attractive and safe recreational areas

5. Operation and Maintenance Fund

Provide sufficient \$ for trustees to manage, operate and maintain facilities

Alternatively, provide management, operation and maintenance of facilities

6. Institutional Controls

Provide institutional controls facilities (e.g. signing, fencing or other measures to preclude/minimize use of selected areas, educational programs)

Fund future institutional controls program

7. Natural Resources Damages

Provide compensation and/or mitigation actions or other remedial measures to restore selected riparian and wetland habitat areas within the Coeur d'Alene drainage

8. Legal Issues and Recovery of Past and Future Costs

(Will be discussed separately)

9. Community Issues

Transition issues(e.g. private property access, lease/easement/agreements);

(Will be discussed separately with other legal issues)

Provide public input as appropriate for trail design

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